

J.F.K., a minor, by and through his Next Friend, CATHERINE KANNADY,

Plaintiffs,

V.

RAZOR USA, LLC

Defendants.

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Cause No. 4:13-cv-01360-JCH

JURY TRIAL DEMANDED

MEMORANDUM AND ORDER

Cause called for hearing on the Joint Petition of Plaintiff and Defendant for Approval of Settlement of Minor's Claim. Plaintiff appears in person (Francis Kannady, Catherine Kannady and J.F.K.), and by counsel, Robert S. Flavin of Kell Lampkin, LLC; Defendant appears by counsel, Dennis S. Harms of Sandberg, Phoenix & von Gontard, P.C. Evidence is adduced. Upon consideration of the evidence and the record as a whole, the Court finds that the terms of the settlement as set forth in said Joint Petition, including, but not limited to, the Settlement and Release of All Claims, the proposed distribution of settlement proceeds and the confidentiality thereof are fair, reasonable and in the best interests of the minor, and as such, this Court hereby Orders, Decrees and Adjudges as follows:

1. Plaintiff filed the above captioned action on July 16, 2013, alleging, *inter alia*, that J.F.K., the minor child of his Next Friend Catherine Kannady, was injured on or about July 23, 2010 by a product manufactured and/or distributed by Defendant Razor USA LLC. [Doc. 1].

2. Defendant Razor USA LLC filed an Answer and Affirmative Defenses denying all allegations of liability, causation and damages on or about September 20, 2013. [Doc. 8].

3. Pursuant to the Court's Case Management Order [Doc. 12] and Amended Case Management Order [Doc. 19] the parties exchanged discovery and conducted depositions.

4. During the discovery process the parties negotiated a settlement of Plaintiff J.F.K.'s claims against Defendant, including provisions that the amount of the settlement, the terms of the settlement and various other matters were and shall remain confidential.

5. Because of J.F.K.'s minority, the Settlement Agreement of Release of All Claims is executed by J.F.K.'s natural parent and appointed Next Friend, Catherine Kannady.

6. As a result, the parties wish to obtain an Order of the Court approving of each material term of the settlement, including, but not limited to, the release of claims, indemnification and confidentiality provisions binding both J.F.K., a minor, and Catherine Kannady, as Next Friend.

7. The Settlement Agreement and Release of All Claims contains provisions and information that is, by agreement, confidential.

8. In order to properly weigh and determine the reasonableness and fairness of the settlement agreed to by the parties, the Court conducted an *in camera* review of the Settlement Agreement and Release of All Claims, marked as Exhibit A at the hearing on the parties' Motion for Approval.

9. To preserve the agreed-upon confidentiality, the Court hereby returns Exhibit A to counsel for Defendant pursuant to Local Rule 13.05(A)(2).

10. Pursuant to R.S.Mo. § 507.184, Plaintiff Catherine Kannady must commence an action in the Circuit Court of St. Charles County, Missouri, Probate Division, to create a

Conservatorship for the benefit of the minor plaintiff herein to receive and hold the proceeds of the settlement.

11. This Court Orders Plaintiff Catherine Kannady to maintain the confidentiality provisions of the Settlement Agreement and Release of All Claims during the commencement and prosecution of the Conservatorship action discussed above.

12. This Court finds that Catherine Kannady has the legal authority, pursuant to R.S.Mo. § 507.184 to execute the Settlement Agreement and Release of All Claims on behalf of the minor plaintiff, and to bind the minor plaintiff to the terms thereof, including, but not limited to, the release of all claims, indemnification and confidentiality provisions.

13. This Court finds that Catherine Kannady has the legal authority to commence the Conservatorship action described above for the sole purpose of receiving and holding the proceeds of the settlement.

14. As both Plaintiff and counsel for Plaintiff acknowledge that counsel for Defendant tendered checks in conformity with the monetary provisions of the Settlement Agreement and Release of All Claims, this Court hereby dismisses the above captioned action, with prejudice, with each party bearing its own costs herein.

15. The Court reviewed the fee contract between Plaintiff, by his Next Friend, and counsel for the Plaintiff, marked as Exhibit B at the hearing on the parties' Motion for Approval, and reviewed the Proposed Statement of Settlement and Distribution, marked as Exhibit C at the hearing on the parties' Motion for Approval, and hereby approves the fees and expenses set forth in such Exhibit C such that said fees and expenses are fair and reasonable and will be paid out of the settlement proceeds of this case.

16. To preserve the agreed-upon confidentiality, the Court hereby returns Exhibits B and C to counsel for Plaintiff pursuant to Local Rule 13.05(A)(2).

17. Based on the foregoing, the Court hereby Orders, Decrees and Adjudges that the Settlement and Release of All Claims, the proposed distribution of settlement proceeds and the confidentiality thereof are fair, reasonable and in the best interests of the minor, and as such, this Court hereby approves the settlement reached between the parties.

SO ORDERED



District Judge Jean C. Hamilton